



U.S. Department of Justice

Environment and Natural Resources Division

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Mr. Philip A. Mattson
Volpe National Transportation Center
55 Broadway
Cambridge MA 02142-1093

Re: United States v. W.R. Grace & Co.;
Civ. No. 01-72-M-DWM (D. Mont.)

Dear Mr. Mattson:

I am writing to bring to your attention the significant efforts of the Volpe Center's Libby team – John McGuiggen, Mark Raney, Patricia Carnes, Courtney Zamora, Paul Lang, Gregory Zevitas, Pat Finn, Joan Louis, Ruth Potter, Jessica Paddock, and Katie Kelly – in our litigation with W.R. Grace & Co. regarding EPA's Libby Asbestos Superfund Site. In particular, I want to commend the work of John McGuiggen, to whom the Department of Justice recently awarded a Special Commendation for the extraordinary assistance he provided in the Grace litigation.

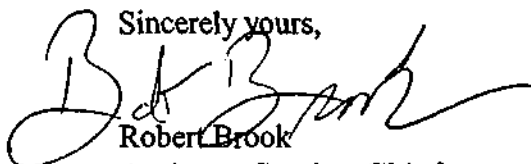
As you know, the Department of Justice brought an action under CERCLA Section 107(a) against Grace on behalf of the Environmental Protection Agency to recover more than \$54 million the government incurred in responding to the release of tremolite asbestos in Libby, Montana. Grace challenged the appropriateness of the cleanup actions EPA had undertaken in Libby and the adequacy of the documentation of the cleanup costs. As the Volpe Center coordinated much of the cleanup work at the Libby site under an Interagency Agreement with EPA, the Volpe Center's work at Libby was a major focus of the case.

In August 2003 – after a four-day trial earlier in the year – the district court awarded EPA all of the costs we sought related to the Libby site. The efforts of the Volpe Center's Libby team were instrumental in helping articulate and present our arguments to the Court, and in meeting our discovery obligations prior to trial. In fact, the Volpe Center's documentation of its Libby cleanup costs – including the costs of its contractors – was so thorough that Grace dropped its objections to the documentation of these costs (amounting to over \$27 million) just before trial. During the trial, Grace's expert accountant even commended the Volpe Center's accounting of its expenditures. Grace's concession greatly simplified the information we needed to present at trial, and validates the Volpe Center's attention to detail.

Mr. McGuiggen, the Volpe Center's Site Manager for the Libby Asbestos Site, deserves special recognition for his outstanding work supporting the trial team in this case. While conducting his regular duties of overseeing the Volpe Center's cleanup strategies and activities in Libby, Mr. McGuiggen also served as a very valuable informational resource to the Department of Justice as we prepared the case for trial. For example, Mr. McGuiggen made himself available at all hours of the day and night to answer questions about the Volpe Center's response activities in Libby, including the technical underpinnings of the cleanup, the contracting mechanisms used, and the documentation of costs incurred. At trial, Mr. McGuiggen very ably represented the government as a fact witness describing the Volpe Center's activities at the site. He also assisted in developing effective lines of questioning for us to ask one of Grace's witnesses. We are very pleased to have had an agency representative upon whom we could always rely, and who was instrumental in preparing for and presenting the government's case at trial.

The Department of Justice recognizes the tremendous effort made by the Volpe Center's entire Libby team in this litigation. While Mr. McGuiggen was the only team member to testify, others assisted in the preparation of trial exhibits and in compiling information to respond to discovery requests, which was critical to our success in the case. We are especially appreciative of the assistance Pat Carnes provided in understanding and utilizing the database of sample results, Mark Raney's assistance on technical issues, the efforts of Paul Lang, Pat Finn, Ruth Potter, Gregory Zevitas, and Jessica Paddock to track down and explain cost documentation, Joan Louis' help on contracting issues, Katie Kelly's assistance on privilege issues, and Courtney Zamora's willingness to wake up well before the crack of dawn to bring us an exhibit from Libby that we unexpectedly needed to introduce first thing in the morning on the last day of trial. Each of these individuals performed requested tasks – many of which were requested on short notice due to the nature of litigation – promptly and professionally.

I have enclosed a plaque conferring the Special Commendation to Mr. McGuiggen. Could you please give it to him and convey our thanks to him and the Volpe Center's entire Libby team.

Sincerely yours,

Robert Brook
Assistant Section Chief